



6712-01

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: The Federal Communications Commission (FCC), as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act (PRA) of 1995. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid control number. Comments are requested concerning whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it

displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written comments should be submitted on or before **[INSERT DATE 30 DAYS FROM PUBLICATION IN FEDERAL REGISTER]**. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via fax 202-395-5167, or via email Nicholas_A._Fraser@omb.eop.gov; and to Cathy Williams, FCC, via email PRA@fcc.gov <<mailto:PRA@fcc.gov>> and to Cathy.Williams@fcc.gov. Include in the comments the OMB control number as shown in the "Supplementary Information" section below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418-2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) go to the web page <<http://www.reginfo.gov/public/do/PRAMain>>, (2) look for the section of the Web page called "Currently Under Review," (3) click on the downward-pointing arrow in the "Select Agency" box below the "Currently Under Review" heading, (4) select "Federal Communications Commission" from the list of agencies presented in the "Select Agency" box, (5) click the "Submit" button to the right of the "Select Agency" box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of

this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060-0519.

Title: Rules and Regulations Implementing the Telephone Consumer Protection Act

(TCPA) of 1991, CG Docket No. 02-278.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; Individuals or households; Not-for-

profit institutions.

Number of Respondents and Responses: 50,151 respondents; 147,453,559 responses.

Estimated Time per Response: .004 hours (15 seconds) to 1 hour.

Frequency of Response: Recordkeeping requirement; Annual, on occasion and one-time reporting requirements; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for the information collection requirements is found in the Telephone Consumer Protection Act of 1991 (TCPA), Public Law 102-243 1, December 20, 1991, 105 Stat. 2394, which added Section 227 of the Communications Act of 1934, [47 U.S.C. 227] Restrictions on the Use of Telephone Equipment.

Total Annual Burden: 712,140 hours.

Total Annual Cost: \$3,989,700.

Nature and Extent of Confidentiality: Confidentiality is an issue to the extent that individuals and households provide personally identifiable information, which is covered under the FCC's system of records notice (SORN), FCC/CGB-1, "Informal Complaints

and Inquiries.” As required by the Privacy Act, 5 U.S.C. 552a, the Commission also published a SORN, FCC/CGB-1 “Informal Complaints and Inquiries”, in the Federal Register on December 15, 2009 (74 FR 66356) which became effective on January 25, 2010. A system of records for the do-not-call registry was created by the Federal Trade Commission (FTC) under the Privacy Act. The FTC originally published a notice in the Federal Register describing the system. See 68 FR 37494, June 24, 2003. The FTC updated its system of records for the do-not-call registry in 2009. See 74 FR 17863, April 17, 2009.

Privacy Impact Assessment: Yes. The Privacy Impact Assessment (PIA) was completed on June 28, 2007. It may be reviewed at: <http://www.fcc.gov/omd/privacyact/Privacy-Impact-Assessment.html>. The Commission is in the process of updating the PIA to incorporate various revisions made to the SORN.

Needs and Uses: The reporting requirements included under this OMB Control Number 3060-0519 enable the Commission to gather information regarding violations of Section 227 of the Communications Act, the Do-Not-Call Implementation Act (Do-Not-Call Act), and the Commission's implementing rules. If the information collection was not conducted, the Commission would be unable to track and enforce violations of Section 227 of the Communications Act, the Do-Not-Call Act, or the Commission's implementing rules. The Commission's implementing rules provide consumers with several options for avoiding most unwanted telephone solicitations.

The national do-not-call registry supplements the company-specific do-not-call rules for those consumers who wish to continue requesting that particular companies not call them. Any company that is asked by a consumer, including an existing customer, not to call again must honor that request for five (5) years.

A provision of the Commission's rules, however, allows consumers to give specific companies permission to call them through an express written agreement. Nonprofit organizations, companies with whom consumers have an established business relationship, and calls to persons with whom the telemarketer has a personal relationship are exempt from the “do-not-call” registry requirements.

On September 21, 2004, the Commission released the Safe Harbor Order establishing a limited safe harbor in which persons will not be liable for placing autodialed and prerecorded message calls to numbers ported from a wireline service within the previous 15 days. The Commission also amended its existing National Do-Not-Call Registry safe harbor to require telemarketers to scrub their lists against the Registry every 31 days.

On December 4, 2007, the Commission released the DNC NPRM seeking comment on its tentative conclusion that registrations with the Registry should be honored indefinitely, unless a number is disconnected or reassigned or the consumer cancels his registration.

On June 17, 2008, in accordance with the Do-Not-Call Improvement Act of 2007, the Commission revised its rules to minimize the inconvenience to consumers of having to re-register their preferences not to receive telemarketing calls and to further the underlying goal of the National Do-Not-Call Registry to protect consumer privacy rights. The Commission released a Report and Order in CG Docket No. 02-278, FCC 08-147, amending the Commission's rules under the Telephone Consumer Protection Act (TCPA) to require sellers and/or telemarketers to honor registrations with the National Do-Not-Call Registry so that registrations will not automatically expire based on the current five year registration period. Specifically, the Commission modified § 64.1200(c)(2) of its rules to require sellers and/or telemarketers to honor numbers registered on the Registry indefinitely or until the number is removed by the database administrator or the registration is cancelled by the consumer.

Most recently, on February 15, 2012, the Commission released a Report and Order in CG Docket No. 02-278, FCC 12-21, revising its rules to: (1) Require prior express written consent for all autodialed or prerecorded telemarketing calls to wireless numbers and for all prerecorded telemarketing calls to residential lines; (2) eliminate the established business relationship exception to the consent requirement for prerecorded telemarketing calls to residential lines; (3) require telemarketers to include an automated, interactive opt-out mechanism in all prerecorded telemarketing calls, to allow consumers more easily to opt out of future robocalls during a robocall itself; and (4) require telemarketers to

comply with the 3% limit on abandoned calls during each calling campaign, in order to discourage intrusive calling campaigns.

Finally, the Commission also exempted from the Telephone Consumer Protection Act requirements prerecorded calls to residential lines made by health care-related entities governed by the Health Insurance Portability and Accountability Act of 1996.

Federal Communications Commission.

Bulah P. Wheeler,

Deputy Manager,

Office of the Secretary,

Office of Managing Director.

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